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TO: Victor S. Chang, Art Unit 1771 - Patents - United States Patent and Trademark Office

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Application No.: 09/715,586

Inventor(s): Peter W. Hamilton, et al.

Filed: November 17, 2000

Docket No.: 5922R2C

Confirmation No.: 5737

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CENTRAL FAX CENTER**JUL 20 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 09/715,586
Inventor(s) : Peter Worthington Hamilton
Filed : November 17, 2000
Art Unit : 1771
Examiner : Victor S. Chang
Docket No. : 5922R2C
Confirmation No. : 5737
Customer No. : 27752
Title : Improved Storage Wrap Material

AMMENDED APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Amended Appeal Brief is filed pursuant to the Notification of Non-Compliant Appeal Brief dated July 16, 2007, and the appeal from the decision communicated in the Office Action mailed on November 7, 2006. A timely Notice of Appeal was filed on February 1, 2007.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

Related US patent application serial number 09/716,740, is currently under appeal.

Related US patent application serial number 10/701,039 has had the rejection of its claims affirmed on appeal. Appellant is not aware of any other related proceedings or appeals.

STATUS OF CLAIMS

Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108 are rejected.

Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108 are appealed.

Claims 2-8, 13, 19-40, 42-46, 53, 59-65, 67-80, 82-94, 96, and 104 are canceled.

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A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

No Amendment has been filed after the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

According to independent claim 41, the invention comprises a storage wrap material. The material comprises a sheet of non-porous material having a first side and a second side. The first side comprises an active side which exhibits an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user. The active side further comprises an adhesive disposed continuously thereon. The material is linerless, such that activation of the active side requires no removal of components of the material. The active side is activatable by a tensile force. The material is sufficiently flexible to conform readily to a desired surface and has sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause the material to break contact with the desired surface. See the specification at page 4, lines 30-34; page 5, lines 1-2; page 6, lines 30-34; page 8, lines 7-17; page 34, lines 12-17; Figure 1.

According to independent claim 95, the invention comprises a storage wrap material. The material comprises a sheet of non-porous material having a first side and a second side. Substantially all of the first side comprises an active side which exhibits an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user. The active side further comprises an adhesive disposed continuously thereon. The material is linerless, such that activation of the active side requires no removal of components of the material. The active side is activatable by a tensile force. The material is sufficiently flexible to conform readily to a desired surface and has sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause the material to break contact with the desired surface. . See the

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specification at page 4, lines 30-34; page 5, lines 1-2; page 6, lines 30-34; page 8, lines 7-17; page 34, lines 12-17; Figure 1.

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

1. The rejection of claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108 under 35 USC §103(a) as being unpatentable over Wilbur (US 2,338,749) in view of Sanders (US 5,344,693) and Appellant's admitted prior art.

ARGUMENTS

1. The rejection of claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103 and 105-108 under 35 USC §103(a) as being unpatentable over Wilbur (US 2,338,749) in view of Sanders (US 5,344,693) and Appellant's admitted prior art is appealed. The combination of cited references fails to support a *prima facie* case of obviousness under 35 USC §103(a) at least by failing to teach or suggest each of the limitations of the invention as set forth in the claims and by setting forth a combination without providing any reasonable expectation of success for the combination.. Those limitations which are not explicitly taught or suggested by the references alone or in combination cannot be said to be inherently present in the structures disclosed by the references. One combination of features from the cited combination lacks any support that the combination could succeed. The rejection should be overturned.

The Examiner acknowledges that the *Wilbur* reference fails to teach or suggest a non-porous or tensile activated sheet. The Examiner provides that the addition of *Sanders* to *Wilbur* cures this deficiency. Appellant submits that taken as a whole, the *Sanders* reference cannot be seen as providing support for a teaching of the limitation that the sheet be activated by a tensile force.

As a preliminary matter, the Examiner argues that the limitation of being activatable by the application of a tensile force need not be addressed as it does not constitute a limitation. The Examiner has not provided any support for this contention despite a specific request by the Appellant to do so.

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The *Sanders* reference provides that:

The invention is characterized(sic) in that spacing means each having a non-adhesive contactable surface and are non-divergent relative one to another in normal use of the component so as to inhibit contact between the said surface and the said other surface. (col 1, line 66 – col. 2, line 2)

and,

Accordingly, it is an object of the present invention to provide a means of spacing a substance carried on a surface of a substrate from another surface in such a manner as to prevent unintentional contact between the substance and the other surface, the substance and the other surface being contactable one with another only by deforming the substrate and/or the other surface. (col. 1 lines 50-56).

The Examiner has chosen to interpret these portions of the *Sanders* reference as providing that “normal use” means preventing unintentional contact between the substance and another surface and that the material of the reference is clearly activatable by a tensile force. Appellant submits that this reads too much into the reference.

The reference provides only that the substance and surface may contact each other by deforming either the substrate, the surface or both. The nature of the deformation and the forces causing this deformation are not described. Nothing in the *Sanders* reference teaches or suggests that the application of a tensile force to the substrate will successfully lead to contact between the substance and the surface.

The Examiner argues that monolayer cling film may be combined with the teachings of *Wilbur* and *Sanders* with the result providing a teaching of all the limitations of the invention as claimed. Appellant that this combination is improper in that there is no reasonable expectation of success that such a combination may be produced. The flexible nature of cling film, which is the aspect of the invention for which cling film is added to the combination, arises from the monolayer nature of cling film. The Examiner argues that this nature may be sufficiently modified that the resultant film will be stiff enough to retain an embossed structure, may additionally be modified by the addition of spacing means from the *Sanders* reference, and yet will retain all of the flexibility which is derived from its original unmodified structure. Appellant submits that there is no support other than the speculation of the Examiner that this combination can be achieved and will possess all of the limitations of the invention as claimed.

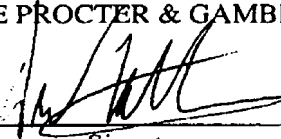
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SUMMARY

In view of all of the above, it is respectfully submitted that the cited combination of references does not teach or suggest each of the limitations of the invention as claimed. Neither is there a reasonable expectation of success that the specific combination set forth by the Examiner can successfully be achieved. The combination fails to establish or support a *prima facie* case of obviousness under 35 USC §103(a). Appellant respectfully requests that the rejection be overturned.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY



Signature

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CLAIMS APPENDIX

1. A storage wrap material according to Claim 81, wherein the adhesion peel force after activation by a user is sufficient to form a continuous seal against a target surface.
9. The storage wrap material of Claim 1, wherein said active side exhibits an adhesion peel force of at least about 1 ounce per inch width after activation by a user.
10. The storage wrap material of Claim 1, wherein said active side may be selectively activated in discrete regions by a user.
11. The storage wrap material of Claim 1, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.
12. The storage wrap material of Claim 1, wherein both said first side and said second side comprise active sides of said material.
14. The storage wrap material of Claim 1, wherein said active side includes a pressure sensitive adhesive.
15. The storage wrap material of Claim 1, wherein said sheet of material comprises a polymeric film material.
16. The storage wrap material of Claim 15, wherein said polymeric film material is selected from the group consisting of: a substantially translucent polymeric film material and a substantially transparent polymeric film material.
17. The storage wrap material of Claim 1, wherein said active side comprises a plurality of three dimensional non-adherent protrusions extending outwardly from said sheet of material and a pressure sensitive adhesive surrounding said non-adherent protrusions, said adhesive having a thickness less than the height of said non-adherent protrusions before activation.

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18. The storage wrap material of Claim 1, wherein said sheet of material is clingless and exhibits no adhesion peel force prior to activation by a user.

41. A storage wrap material comprising: a sheet of non-porous material having a first side and a second side, said first side comprising an active side exhibiting an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user, said active side further comprising an adhesive disposed continuously thereon, wherein said sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, wherein said active side is activatable by a tensile force, said sheet of material being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

47. The storage wrap of Claim 41, wherein said tensile force is required to be at least about 0.80 pounds per inch of strip width to activate said active side.

48. The storage wrap of Claim 41, wherein said tensile force is exerted in a direction substantially parallel to said sheet of material.

49. The storage wrap material of Claim 41, wherein said active side exhibits an adhesion peel force of at least about 1 ounce per inch width after activation by a user.

50. The storage wrap material of Claim 41, wherein said active side may be selectively activated in discrete regions by a user.

51. (Rejected) The storage wrap material of Claim 41, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

52. The storage wrap material of Claim 41, wherein both said first side and said second side comprise active sides of said material.

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54. The storage wrap material of Claim 41, wherein said active side includes a pressure sensitive adhesive.

55. The storage wrap of Claim 41, wherein said sheet of material comprises a polymeric film material.

56. The storage wrap material of Claim 55, wherein said polymeric film material is selected from the group consisting of: a substantially translucent polymeric film material and a substantially transparent polymeric film material.

57. The storage wrap material of Claim 41, wherein said active side comprises a plurality of three dimensional non-adherent protrusions extending outwardly from said sheet of material and a pressure sensitive adhesive surrounding said non-adherent protrusions, said adhesive having a thickness less than the height of said non-adherent protrusions before activation.

58. The storage wrap material of Claim 41, wherein said sheet of material is clingless and exhibits no adhesion peel force prior to activation by a user.

66. A storage wrap material of Claim 41, wherein said active side when activated forms a bond with a target surface, said bond being selected from one or more groups consisting of: a discontinuous bond, a permanent bond, a refastenable bond, a resealable bond and a releasable bond.

81. A storage wrap material according to Claim 41 wherein the adhesion peel force after activation by a user is sufficient to form a seal against a target surface.

95. A storage wrap material comprising a sheet of non-porous material having a first side and a second side, substantially all of said first side comprising an active side, said active side comprising an adhesive disposed continuously thereon, said active side exhibiting an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to said activation by a user, wherein said active side is activatable by a tensile force, wherein said

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sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, said sheet being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

97. The storage wrap material of Claim 95, wherein said active side may be selectively activated in discrete regions by a user.

98. The storage wrap material of Claim 95, wherein said active side may be activated by compression against a target surface.

99. The storage wrap material of Claim 95, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

100. The storage wrap material of Claim 95, wherein both said first side and said second side comprise active sides of said material.

101. A storage wrap material according to Claim 95, wherein said active side when activated forms a bond with a target surface, said bond being selected from one or more of the group consisting of: a discontinuous bond, a permanent bond, a refastenable bond, a resealable bond and a releasable bond.

102. A storage wrap material according to Claim 95, wherein the adhesion peel force after activation by a user is sufficient to form a seal against a target surface.

103. A storage wrap material according to Claim 102, wherein the adhesion peel force after activation by a user is sufficient to form a continuous seal against a target surface.

105. The storage wrap material of Claim 103, wherein said active may be selectively activated in discrete regions by a user.

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106. The storage wrap material of Claim 103, wherein said active side may be activated by compression against a target surface.

107. The storage wrap material of Claim 103, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

108. The storage wrap material of Claim 103, wherein both said first side and said second side comprise active sides of said material.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

Related US patent application serial number 09/716,740, is currently under appeal. No decision has been rendered in this appeal as of this date.